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120th Session, 2013-2014

**H. 3135**

**STATUS INFORMATION**

General Bill

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Introduced in the House on January 8, 2013

Currently residing in the House Committee on **Judiciary**

Summary: Professional bondsmen to be regulated by LLR

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
12/11/2012	House	Prefiled
12/11/2012	House	Referred to Committee on <b>Judiciary</b>
1/8/2013	House	Introduced and read first time ( <a href="#">House Journal-page 100</a> )
1/8/2013	House	Referred to Committee on <b>Judiciary</b> ( <a href="#">House Journal-page 100</a> )

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**VERSIONS OF THIS BILL**

[12/11/2012](#)

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**A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 40 TO TITLE 40 SO AS TO PROVIDE FOR THE REGULATION OF PROFESSIONAL BONDSMEN BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO PROVIDE CERTAIN DEFINITIONS, TO PROVIDE LICENSURE, EDUCATION, REGISTRATION, AND OTHER REQUIREMENTS FOR PROFESSIONAL BONDSMEN, TO PROVIDE OVERSIGHT BY THE DEPARTMENT, AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS; TO AMEND SECTIONS 38-53-10, 38-53-80, 38-53-85, 38-53-90, 38-53-100, 38-53-140, 38-53-150, 38-53-160, 38-53-180, 38-53-190, 38-53-200, 38-53-220, AND 38-53-260, ALL RELATING TO THE PROFESSION OF BONDSMEN, SO AS TO REMOVE REFERENCES TO PROFESSIONAL BONDSMEN; AND TO REPEAL SECTIONS 38-53-110, 38-53-230, 38-53-280, 38-53-290, 38-53-300, 38-53-310 AND 38-53-330 ALL RELATING TO THE REGULATION OF PROFESSIONAL BONDSMEN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 40

Professional Bondsmen

Section 40-40-10. For the purposes of this section:

1 (1) 'Bail bond' means an undertaking by the defendant to  
2 appear in court as required upon penalty of forfeiting bail to the  
3 State in a stated amount and may include an unsecured appearance  
4 bond, a premium-secured appearance bond, an appearance bond  
5 secured by a cash deposit of the full amount of the bond, an  
6 appearance bond secured by a mortgage, and an appearance bond  
7 secured by at least one surety.

8 (2) 'Clerk of court', unless otherwise specified, means the  
9 clerk of the circuit court of the county in the state where the  
10 bondsman is currently writing or obligated on the majority of those  
11 bail bonds which he has written or on which he is obligated.

12 (3) 'Department' means the Department of Labor, Licensing  
13 and Regulation.

14 (4) 'Professional bondsmen' means a person who is approved  
15 and licensed under the provisions of this chapter and who pledges  
16 cash or approved securities with the clerk of court as security for  
17 bail bonds written in connection with a judicial proceeding and  
18 receives or is promised money or other things of value for the  
19 pledge.

20  
21 Section 40-40-20. (A) A person may not act in the capacity of  
22 a professional bondsman or perform any of the functions, duties, or  
23 powers prescribed for professional bondsmen under the provisions  
24 of Chapter 53, Title 38 unless he is qualified and licensed in  
25 accordance with the provisions of this chapter. A license may not  
26 be issued to a professional bondsman except as provided in this  
27 chapter.

28 (B) An applicant for a license as a professional bondsman or a  
29 renewal of this license must apply on forms prepared and supplied  
30 by the director or his designee.

31 (C) The director or his designee:

32 (1) may ask the applicant any questions, written or  
33 otherwise, relating to his qualifications, residence, prospective  
34 place of business, and any other inquiries which, in the opinion of  
35 the director or his designee, are necessary in order to protect the  
36 public and ascertain the qualifications of the applicant;

37 (2) shall request that the State Law Enforcement Division  
38 conduct any reasonable investigation relative to the determination  
39 of the applicant's fitness to be licensed or to continue to be  
40 licensed; and

41 (3) may not consider an application of an applicant within  
42 one year following the date on which the director or his designee  
43 denied the applicant's last application. However, the failure of an

1 applicant to secure approval of the director or his designee does  
2 not preclude him from applying successive applications.

3  
4 Section 40-40-30. (A)(1) Except as provided in subsection (B),  
5 an applicant for an initial license to work as a professional  
6 bondsman must:

7 (a) complete at least twenty hours of education in subjects  
8 approved by the department that are pertinent to the duties and  
9 responsibilities of a professional bondsman, including all laws and  
10 regulations related to being a professional bondsman; and

11 (b) take and pass a written examination at the conclusion  
12 of this coursework. This examination must be developed,  
13 administered, and graded by the department.

14 (2) Except as provided in subsection (F), a person licensed  
15 as a professional bondsman must complete annually at least six  
16 hours of continuing education in subjects related to the duties and  
17 responsibilities of a professional bondsman before the department  
18 may renew his license. These continuing education courses may  
19 not include a written or oral examination.

20 (B) A person licensed as a professional bondsman before the  
21 effective date of this section is not required to complete the  
22 requisite twenty hours of education for initial licensure, but must  
23 satisfy the continuing education requirements of subsection (A) to  
24 renew his license.

25 (C) The South Carolina Bail Agent's Association or any other  
26 group or association approved by the department to provide  
27 educational courses to professional bondsmen must establish an  
28 educational curriculum for licensure under this chapter.

29 (D) The department must approve the courses offered to satisfy  
30 the requirements of this section to ensure that these courses meet  
31 the standards for education established by this section and the  
32 department.

33 (E) A person who falsely represents that he has met the  
34 educational requirements of this section is subject, after being  
35 afforded notice and an opportunity for a due process hearing by the  
36 Administrative Law Court, to the penalty provided for in Section  
37 40-40-220.

38 (F) A professional bondsman who is sixty years of age or more  
39 and who has at least twenty years of licensure as a professional  
40 bondsman is exempt from the continuing education requirements  
41 of this section.

42 (G) The director shall establish rules and regulations for the  
43 effective administration of this section.

1  
2 Section 40-40-40. An applicant for initial licensure as a  
3 professional bondsman must furnish with his application:

4 (1) written certification, on a form provided the department,  
5 that he:

6 (a) is eighteen years of age or older;

7 (b) is a resident of this State;

8 (c) is a person of good moral character and has not been  
9 convicted of a felony or any crime involving moral turpitude  
10 within the last ten years; and

11 (d) has knowledge, training, or experience of sufficient  
12 duration and extent to satisfy reasonably the director or his  
13 designee that he possesses the competence necessary to fulfill the  
14 responsibilities of a licensee;

15 (2) a recent passport size full-face photograph; and

16 (3) a complete set of his fingerprints. The applicant's  
17 fingerprints must be certified as authentic by an authorized law  
18 enforcement officer.

19  
20 Section 40-40-50. (A) A licensee annually must pay a license  
21 fee of four hundred dollars and must be paid to the director or his  
22 designee with each application for an initial or renewal license as a  
23 professional bondsman.

24 (B) The director or his designee shall forward the full amount  
25 of this fee to the State Treasurer to be placed in the general fund.  
26 However, two hundred dollars of each fee must be paid to the  
27 director or his designee to offset the costs the department incurs  
28 under the provisions of this chapter, and two hundred dollars of  
29 each fee must be paid to the State Law Enforcement Division to  
30 offset the costs it may incur under the provisions of this chapter.

31 (C) In addition to the fees provided in subsection (A), a  
32 professional or surety bondsman annually shall pay:

33 (1) a fee of one hundred-fifty dollars to the clerk of court of  
34 the county in which the principal place of business of the licensee  
35 is located; and

36 (2) one hundred dollars to the clerk of court of any other  
37 county in which the licensee does business.

38  
39 Section 40-40-60. In addition to the other requirements of this  
40 chapter, an applicant for a professional bondsman's license shall  
41 furnish annually a detailed financial statement under oath and in a  
42 form as the director or his designee may require.

43

1 Section 40-40-70. (A) A license issued pursuant to the  
2 provisions of this chapter expires annually on June thirtieth unless  
3 revoked or suspended before that time by the director or his  
4 designee.

5 (B) The department shall issue a renewal license to a licensee  
6 who:

7 (1) meets the continuing education requirements of this  
8 chapter;

9 (2) has paid the license renewal fee required by this chapter;

10 (3) has submitted a financial statement in compliance with  
11 this chapter; and

12 (4) is not known by the department to be in violation of a  
13 provision of this chapter.

14 (C) A license issued under this chapter continues in effect upon  
15 timely submission of an application for renewal to the department  
16 until the renewal license is issued or denied for cause.

17  
18 Section 40-40-80. (A) The director or his designee may deny,  
19 suspend, revoke, or refuse to renew the license of a professional  
20 bondsman issued under this chapter for:

21 (1) cause sufficient to deny issuance of the original license;

22 (2) violating a law of this State relating to bail in the course  
23 of dealings under the license issued to a professional bondsman by  
24 the director or his designee;

25 (3) materially misstating, misrepresenting, or committing  
26 fraud in obtaining the license;

27 (4) misappropriating, converting, or unlawfully withholding  
28 money belonging to others and received in the conduct of business  
29 under the license;

30 (5) engaging in a fraudulent or dishonest practice while  
31 conducting business as a licensee;

32 (6) being convicted of a felony within the last ten years  
33 regardless of whether the conviction resulted from conduct in or  
34 related to the bail bond business;

35 (7) failing to comply with a violation of the provisions of  
36 this chapter, an order of the director or his designee, or a regulation  
37 of the department;

38 (8) conducting affairs under the license absent good faith, in  
39 an incompetent manner, or in an untrustworthy manner;

40 (9) rebating, offering to rebate, offering to divide, or  
41 dividing a premium received for a bond;

42 (10) failing to pay a judgment or decree rendered on a  
43 forfeited undertaking in a court of competent jurisdiction;

1 (11) charging or receiving as premium or compensation for  
2 the making of a deposit or bail bond a sum in excess of that  
3 permitted by Chapter 53, Title 38; or

4 (12) requiring a defendant to agree to engage the services of a  
5 specified attorney as a condition of his executing a bail bond.

6 (B) The director or his designee, in lieu of revoking or  
7 suspending a license in accordance with the provisions of this  
8 chapter, may order a licensee to pay a monetary penalty as  
9 provided in Section 40-40-220 for each offense under subsection

10 (A). A penalty paid under this subsection must be made to the  
11 director or his designee and deposited in the general fund of the  
12 State. The director or his designee may revoke or suspend a license  
13 for a period as he determines for failure of a licensee to pay a  
14 penalty within twenty days after the department mails a copy of the  
15 order, postage prepaid, registered, and addressed to the last known  
16 place of business of the licensee, unless the order is stayed by an  
17 order of a court of competent jurisdiction.

18 (C) A professional bondsman whose license has been revoked  
19 may not be issued another license for a period of one year after the  
20 revocation and must meet all requirements under this chapter prior  
21 to relicensing by the department.

22  
23 Section 40-40-90. The department shall not suspend, revoke,  
24 refuse to issue, or refuse to renew a license except on reasonable  
25 notice to and opportunity for the person seeking initial licensure or  
26 renewal of a license. A person may appeal the final order of the  
27 director or his designee that suspends a license, revokes a license,  
28 or denies an application for an initial or renewal license to the  
29 Administrative Law Court as provided by law.

30  
31 Section 40-40-100. A professional bondsman may not:

32 (1) pay a fee or rebate or give or promise anything of value,  
33 directly or indirectly, to a jailer, law enforcement officer,  
34 committing magistrate, or other person who has the legal power to  
35 arrest or hold a person in custody, or to any public official or  
36 public employee in order to secure a settlement, compromise,  
37 remission, or reduction of the amount of any bail bond or the  
38 forfeiture of the bail bond, including the payment to the law  
39 enforcement officers, directly or indirectly, for the arrest or  
40 apprehension of a principal or principals who have caused a  
41 forfeiture;

42 (2) pay a fee or rebate or give anything of value to an attorney  
43 in bail bond matters, except in defense of any action on a bond;

1 (3) pay a fee or rebate or give or promise anything of value to  
2 the principal or anyone in his behalf;

3 (4) participate in the capacity of an attorney at a trial or hearing  
4 of one on whose bond he is surety, nor suggest or advise the  
5 employment of or name for employment any particular attorney to  
6 represent the principal;

7 (5) accept anything of value from a principal except the  
8 premium, which may not exceed fifteen percent of the face amount  
9 of the bond, with a minimum fee of twenty-five dollars. However,  
10 the bondsman is permitted to accept collateral security or other  
11 indemnity from the principal which must be returned upon final  
12 termination of liability on the bond. The bondsman shall identify  
13 who is paying the premium and shall represent that the collateral  
14 security or other indemnity has not been obtained from any person  
15 who has a greater interest in the principal's disappearance than  
16 appearance for trial. The collateral security or other indemnity  
17 required by the bondsman must be reasonable in relation to the  
18 amount of the bond;

19 (6) solicit business in any of the courts or on the premises of  
20 any of the courts of this State, in the office of any magistrate, or in  
21 or about any place where prisoners are confined. Law enforcement  
22 officers and jailers shall report any violations of this provision to  
23 the court. Any action taken pursuant to this provision resulting in  
24 a conviction, guilty plea, or plea of nolo contendere must be  
25 reported to the director or his designee by the court within thirty  
26 days; and

27 (7) advise or assist the principal for the purpose of forfeiting  
28 bond.

29  
30 Section 40-40-110. A professional who accepts collateral shall  
31 give a written receipt for the collateral. This receipt must give in  
32 detail a full description of the collateral received.

33  
34 Section 40-40-120. A professional bondsman may not sign or  
35 countersign blank bail bonds, nor may he give a power of attorney  
36 to, or otherwise authorize, anyone to countersign his name to  
37 bonds unless the authorized person is a licensed bondsman or  
38 runner directly employed by the professional bondsman giving  
39 power of attorney. Copies of all the powers of attorney and  
40 revocations of the powers of attorney must be filed immediately  
41 with the department and the clerk of the circuit court of the county  
42 in the state where the bondsman giving the power of attorney is  
43 currently writing or is obligated on bail bonds.



1  
2 Section 40-40-130. A professional bondsman who discontinues  
3 writing bail bonds during the period for which he is licensed shall  
4 notify the clerks of the circuit courts with whom he is registered  
5 and return his license to the director or his designee for  
6 cancellation within thirty days after discontinuance.

7  
8 Section 40-40-140. (A) A person licensed as a professional  
9 bondsman may appoint as runner any person who has been issued  
10 a runner's license, and shall before July second of each year  
11 furnish to the clerk of court of each county where he is doing  
12 business and the director or his designee a list of all runners  
13 appointed by him. A bondsman who, subsequent to the filing of  
14 this list, appoints additional persons as runners shall file written  
15 notice with the clerk of court of each county where he is doing  
16 business and the director or his designee of the appointment.

17 (B) A bondsman terminating the appointment of a runner shall  
18 file written notice of the termination with the clerk of court and the  
19 director or his designee together with a statement that he has given  
20 or mailed notice to the runner. Notice filed with the clerk of court  
21 and the director or his designee shall state the reasons, if any, for  
22 termination. Information so furnished the director or his designee  
23 is privileged and may not be used as evidence in any action against  
24 the bondsman.

25  
26 Section 40-40-150. A professional bondsman may not become a  
27 surety on an undertaking unless he has registered his current  
28 license in the office of the clerk of the circuit court in the county in  
29 which he resides and registered a certified copy of the license with  
30 the clerk of the circuit court in any other county in which he writes  
31 bail bonds.

32  
33 Section 40-40-160. A professional bondsman acting as surety on  
34 bail bonds in this State shall maintain security deposits with the  
35 clerk of court of the county in which the bondsman has his primary  
36 place of business equal to at least one-fourth of the amount of all  
37 bonds or undertakings written in this State on which he is  
38 absolutely or conditionally liable as of the first day of the current  
39 month. A minimum of ten thousand dollars of this collateral shall  
40 be in the form of cash deposited with the clerk of court or  
41 certificates of deposit pledged to the clerk of court. Any remaining  
42 collateral shall be pledges of real estate, the value of which must  
43 be based upon the appraised value by the county tax assessor. The

1 real estate must be free and clear of any encumbrances based upon  
2 a title opinion furnished to the clerk of court by the bondsman.

3  
4 Section 40-40-170. The securities deposited by a professional  
5 bondsman with the clerk of court must be held in trust for the sole  
6 protection and benefit of the holder of bail bonds executed by or  
7 on behalf of the undersigned bondsman in this State. A pro rata  
8 portion of the securities must be returned to the bondsman when  
9 the clerk of court is satisfied that the deposit of securities is in  
10 excess of the amount required to be maintained with him by the  
11 bondsman. All the securities must be returned if the clerk of court  
12 is satisfied that the bondsman has satisfied, or satisfactory  
13 arrangements have been made to satisfy, the obligations of the  
14 bondsman on all of his bail bonds written in the State. The clerk of  
15 court may sell or transfer any of the securities or utilize the  
16 proceeds of the securities for the purpose of satisfying the  
17 liabilities of the professional bondsman on bail bonds given in this  
18 State on which he is liable.

19  
20 Section 40-40-180. With the securities deposited with the clerk  
21 of court, the professional bondsman shall at the same time deliver  
22 to the clerk of court a power of attorney on a form supplied by the  
23 clerk of court, executed and acknowledged by the professional  
24 bondsman, authorizing the sale or transfer of the securities or any  
25 part of the securities. The power of attorney must read as follows:  
26 'Know all men by these presents that I, \_\_\_\_\_, a  
27 professional bondsman, located in the County of \_\_\_\_\_, in  
28 the State of \_\_\_\_\_, do authorize and appoint for myself and  
29 my successors, heirs, and assigns the clerk of court of this county,  
30 in the name and in behalf of myself as professional bondsman, my  
31 attorney to sell or transfer any securities deposited or that may be  
32 deposited by me as professional bondsman with the clerk of court,  
33 under the laws and regulations requiring a deposit of securities to  
34 be made by professional bondsmen doing business in the State of  
35 South Carolina if the sale or transfer is considered necessary by the  
36 clerk of court to pay any liability arising under a bond which  
37 purports to be given by the undersigned bondsman in any county in  
38 this State, and execution has been issued against me as bondsman  
39 pursuant to a judgment on the bond, and the judgment has not  
40 been satisfied. The securities so deposited are to be held in trust  
41 by the clerk of court for the sole protection and benefit of the  
42 holder of bail bonds executed by or on behalf of the undersigned  
43 bondsman.

1 In witness whereof, I have set my hand and affixed my seal this  
2 \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
3 \_\_\_\_ (L.S.)  
4 Notary Public  
5 \_\_\_\_\_  
6 My commission expires:  
7 \_\_\_\_\_.

8  
9 Section 40-40-190. A professional bondsman whose security  
10 deposits with the clerk of court are reduced in value below the  
11 requirements of Section 38-53-270 immediately shall, upon notice  
12 of the deficiency, pledge with the court the additional collateral  
13 necessary to comply with Section 38-53-270. A professional  
14 bondsman may not sign, endorse, execute, or become a surety on  
15 any additional bail bonds in any county in this State until he has  
16 made the additional deposit of securities as required by the notice  
17 of deficiency. The clerk of court has the authority to suspend  
18 bonding privileges until the bondsman complies with Section  
19 38-53-270. If the bondsman has any outstanding forfeitures  
20 including, but not limited to, license fees and bond estreatments,  
21 the clerk of court has the authority to suspend bonding privileges  
22 until the bondsman complies with this section. The clerk  
23 immediately shall notify all parties who were originally notified of  
24 the suspension of the bondsman's compliance with this section.

25  
26 Section 40-40-200. A professional bondsman shall by the  
27 fifteenth of each month file with the clerk of court of the county of  
28 his principal place of business and any other county where he is  
29 doing business a written report in a form prescribed by the director  
30 or his designee regarding all bail bonds on which he is liable as of  
31 the first day of each month showing:

- 32 (1) each individual bonded;  
33 (2) the date the bond was given;  
34 (3) the principal sum of the bond;  
35 (4) the state or local official with whom the bond was filed;  
36 (5) the fee charged for the bonding service in each instance;  
37 and  
38 (6) all pending bonds.

39  
40 Section 40-40-210. When the director or his designee considers  
41 it necessary, he shall visit and examine or cause to be visited and  
42 examined by some competent person appointed by him for that  
43 purpose any professional bondsman subject to the provisions of

1 this chapter. For this purpose, the director or his designee or  
2 person making the examination has free access to all books and  
3 papers of the bondsman that relate to his business and to the books  
4 and papers kept by any of his agents or runners.

5  
6 Section 40-40-220. A person violating any of the provisions of  
7 this chapter is guilty of a misdemeanor and, upon conviction, must  
8 be fined not more than five hundred dollars or imprisoned for not  
9 more than thirty days, or both.

10  
11 Section 40-40-230. To the extent a provision of this chapter  
12 conflicts with a provision in Chapter 53, Title 38, the provisions of  
13 this chapter must control and prevail.”

14  
15 SECTION 2. Section 38-53-10(9) of the 1976 Code is amended to  
16 read:

17  
18 “(9) ‘Professional bondsman’ means ~~any~~ a person ~~who is~~  
19 approved and licensed under the provisions of ~~this chapter~~ Chapter  
20 40, Title 40 and who pledges cash or approved securities with the  
21 clerk of court as security for bail bonds written in connection with  
22 a judicial proceeding and receives or is promised money or other  
23 things of value for the pledge.”

24  
25 SECTION 3. Section 38-53-80 of the 1976 Code is amended to  
26 read:

27  
28 “Section 38-53-80. No person may act in the capacity of a  
29 ~~professional bondsman~~, surety bondsman, or runner or perform  
30 any of the functions, duties, or powers prescribed for ~~professional~~  
31 ~~or~~ surety bondsmen or runners under the provisions of this chapter  
32 unless that person is qualified, except for an accommodation  
33 bondsman, licensed in accordance with the provisions of this  
34 chapter. No license may be issued to a ~~professional bondsman~~,  
35 surety bondsman, or runner except as provided in this chapter.

36 The applicant shall apply for a license or renewal of a license on  
37 forms prepared and supplied by the director or his designee. The  
38 director or his designee may ask the applicant any questions,  
39 written or otherwise, relating to his qualifications, residence,  
40 prospective place of business, and any other inquiries which, in the  
41 opinion of the director or his designee, are necessary in order to  
42 protect the public and ascertain the qualifications of the applicant.  
43 The director or his designee shall request that the State Law

1 Enforcement Division conduct any reasonable investigation  
2 relative to the determination of the applicant's fitness to be  
3 licensed or to continue to be licensed.

4 The failure of the applicant to secure approval of the director or  
5 his designee does not preclude him from applying as many times  
6 as he desires, but no application may be considered by the director  
7 or his designee within one year subsequent to the date upon which  
8 the director or his designee denied the applicant's last application."  
9

10 SECTION 4. Section 38-53-85 of the 1976 Code is amended to  
11 read:

12  
13 "Section 38-53-85. (A)(1) An applicant for a license to work as  
14 a ~~professional bondsman~~, surety bondsman, or runner must  
15 complete not less than twenty hours of education in subjects  
16 pertinent to the duties and responsibilities of a ~~professional and~~  
17 surety bondsman or runner, including all laws and regulations  
18 related to being a ~~professional or~~ surety bondsman or runner. A  
19 written examination must be administered at the conclusion of the  
20 course work. Each applicant must pass the examination before he  
21 can be licensed.

22 (2) Each person licensed as a ~~professional bondsman~~, surety  
23 bondsman, or runner must complete annually not less than six  
24 hours of continuing education in subjects related to the duties and  
25 responsibilities of a ~~professional and~~ surety bondsman or runner  
26 before his license shall be renewed. The continuing education  
27 courses shall not include a written or oral examination. The  
28 six-hour annual requirement is in addition to the twenty-four hour  
29 continuing education requirement for surety insurance agents as  
30 required by Section 38-43-106.

31 (B) A person licensed as a ~~professional bondsman~~, surety  
32 bondsman, or runner before the effective date of this section is not  
33 required to complete the requisite twenty hours of education but  
34 must complete six hours of continuing education courses in order  
35 to have his license renewed.

36 (C) The South Carolina Bail Agent's Association or any other  
37 group or association approved by the Department of Insurance to  
38 provide educational courses to bondsmen must establish an  
39 educational curriculum for bondsman licensure. The Department  
40 of Insurance must approve the courses offered and ensure that the  
41 courses meet the standards for education established by this section  
42 and the department. The requirement of course work for licensure  
43 is not satisfied by a mail order course. The department ~~must~~ also

1 must approve a written examination to be administered by all  
2 groups who provide educational courses to be administered at the  
3 conclusion of the twenty-hour course work.

4 (D) A person who falsely represents that he has met the  
5 educational requirements of this section is subject, after being  
6 afforded notice and an opportunity for a due process hearing by the  
7 Administrative Law Judge Division, to the penalty provided for in  
8 Section 38-53-340.

9 (E) A ~~professional bondsman~~, surety bondsman, or runner who  
10 is more than sixty years of age and who has at least twenty years of  
11 licensure is exempt from the continuing education requirements  
12 contained in this section.

13 (F) The director shall establish rules and regulations for the  
14 effective administration of this section.”

15  
16 SECTION 5. Section 38-53-90 of the 1976 Code is amended to  
17 read:

18  
19 “Section 38-53-90. (A) Before a license is issued to an  
20 applicant permitting him to act as a ~~professional~~ bondsman or  
21 runner, the applicant shall furnish to the director or his designee a  
22 complete set of his fingerprints and a recent passport size full-face  
23 photograph. The applicant’s fingerprints must be certified by an  
24 authorized law enforcement officer.

25 (B) Before being issued the license, every applicant for a  
26 license as a ~~professional bondsman~~, surety bondsman, or runner  
27 shall certify to the director that he:

28 (a~~1~~) is eighteen years of age or older;

29 (b~~2~~) is a resident of this State;

30 (c~~3~~) is a person of good moral character and has not been  
31 convicted of a felony or any crime involving moral turpitude  
32 within the last ten years;

33 (d~~4~~) has knowledge, training, or experience of sufficient  
34 duration and extent to satisfy reasonably the director or his  
35 designee that he possesses the competence necessary to fulfill the  
36 responsibilities of a licensee.”

37  
38 SECTION 6. Section 38-53-100 of the 1976 Code is amended to  
39 read:

40  
41 “Section 38-53-100. (A) A license fee of four hundred dollars  
42 must be paid to the director or his designee with each application  
43 for a license as a ~~professional~~ bondsman. The director or his

1 designee shall forward four hundred dollars to the State Treasurer  
2 to be placed in the general fund; however, of the four hundred  
3 dollars, two hundred dollars must be paid over to the director or his  
4 designee to offset the costs he incurs under the provisions of this  
5 chapter, and two hundred dollars must be paid over to the State  
6 Law Enforcement Division to offset the costs it may incur under  
7 the provisions of this chapter.

8 (B) A license fee of two hundred dollars must be paid to the  
9 director or his designee with each application for a license as a  
10 runner. The director or his designee shall forward two hundred  
11 dollars to the State Treasurer to be placed in the general fund;  
12 however, of the two hundred dollars, one hundred dollars must be  
13 paid over to the director or his designee to offset the costs he  
14 incurs under the provisions of this chapter, and one hundred dollars  
15 must be paid over to the State Law Enforcement Division to offset  
16 the costs it incurs under the provisions of this chapter.

17 (C) The director or his designee shall forward forty percent of  
18 all fees collected under subsections (A) and (B) of this section to  
19 the clerk of court of the county where the principal place of  
20 business of the bondsman or runner is located. The remaining  
21 sixty percent of collected fees must be forwarded to the State  
22 Treasurer to be placed in the general fund, of which one-third must  
23 be paid to the State Law Enforcement Division, and two-thirds  
24 must be paid to the director or his designee to offset expenses  
25 incurred under the provisions of this chapter.

26 (D) In addition to the fees herein provided, a ~~professional or~~  
27 surety bondsman shall pay to the clerk of court of his home county  
28 the sum of one hundred fifty dollars annually for each licensee to  
29 be paid directly to and retained by the clerk. In addition, each  
30 bondsman and runner shall pay to any other county where he is  
31 doing business the sum of one hundred dollars to be paid to and  
32 retained by the clerk. The fee must be paid annually and directly  
33 to the clerk of court who shall deposit it in an account maintained  
34 by the clerk.”

35

36 SECTION 7. Section 38-53-140 of the 1976 Code is amended to  
37 read:

38

39 “Section 38-53-140. ~~(A) All licenses~~ A license issued pursuant  
40 to the provisions of this chapter ~~expire~~ expires annually on June  
41 thirtieth unless revoked or suspended prior to that time by the  
42 director or his designee or upon notice served upon the director or

1 his designee that the employer of ~~any~~ a runner has canceled the  
2 licensee's authority to act for the employer.

3 (B) A renewal license must be issued by the director or his  
4 designee to a licensee who has met the continuing education  
5 requirements in Section 38-53-85(A) upon the payment of a  
6 renewal fee of two hundred dollars for runners and four hundred  
7 dollars for ~~professional~~ bondsmen, but the licensees are required in  
8 all other respects to comply with the provisions of this chapter.  
9 After the receipt of the licensee's application for renewal, the  
10 current license continues in effect until the renewal license is  
11 issued or denied for cause."

12  
13 SECTION 8. Section 38-53-150(C) of the 1976 Code is amended  
14 to read:

15  
16 "(C) A ~~professional~~ or surety bondsman or runner whose license  
17 has been revoked cannot be issued another license for a period of  
18 one year and must meet all requirements under this chapter prior to  
19 relicensing by the department."

20  
21 SECTION 9. Section 38-53-160 of the 1976 Code is amended to  
22 read:

23  
24 "Section 38-53-160. ~~No~~ A license may not be refused,  
25 suspended, or revoked, or renewal refused, except on reasonable  
26 notice and opportunity to be heard afforded the person licensed or  
27 seeking renewal of the license. ~~Any~~ An applicant for a license as a  
28 ~~professional~~ or surety bondsman or runner whose application has  
29 been denied or whose license has been suspended or revoked, or  
30 renewal of the license denied, has the right of appeal from the final  
31 order of the director or his designee to the Administrative Law  
32 ~~Judge Division~~ Court as provided by law."

33  
34 SECTION 10. Section 38-53-180 of the 1976 Code is amended  
35 to read:

36  
37 "Section 38-53-180. When a ~~professional~~ or surety bondsman  
38 accepts collateral, he shall give a written receipt for the collateral.  
39 This receipt ~~shall~~ must give in detail a full description of the  
40 collateral received."

41  
42 SECTION 11. Section 38-53-190 of the 1976 Code is amended  
43 to read:



1  
2 “Section 38-53-190. ~~No~~ A sheriff, deputy sheriff, other law  
3 enforcement officer, judicial official, attorney, parole officer,  
4 probation officer, jailer, assistant jailer, employee of ~~any~~ a court of  
5 this State, or other public employee assigned to duties relating to  
6 the administration of the court may become a surety on a bail bond  
7 for any person. ~~No~~ A person covered by this section may not act  
8 as agent for ~~any~~ a bonding company ~~or professional~~ bondsman, nor  
9 may he have an interest, directly or indirectly, in the financial  
10 affairs of any firm or corporation whose principal business is  
11 acting as bondsmen. Nothing in this section prohibits ~~any~~ a person  
12 designated above from being a surety upon the bond of his spouse,  
13 parent, brother, sister, child, or descendant.”  
14

15 SECTION 12. Section 38-53-200 of the 1976 Code is amended  
16 to read:  
17

18 “Section 38-53-200. A ~~professional or~~ surety bondsman may  
19 not sign or countersign blank bail bonds, nor may he give a power  
20 of attorney to, or otherwise authorize, anyone to countersign his  
21 name to bonds unless the authorized person is a licensed bondsman  
22 or runner directly employed by the bondsman giving power of  
23 attorney. Copies of all the powers of attorney and revocations of  
24 the powers of attorney must be filed immediately with the  
25 department and the clerk of the circuit court of the county in the  
26 state where the bondsman giving the power of attorney is currently  
27 writing or is obligated on bail bonds.”  
28  
29

30 SECTION 13. Section 38-53-220 of the 1976 Code is amended  
31 to read:  
32

33 “Section 38-53-220. A ~~professional or~~ surety bondsman who  
34 discontinues writing bail bonds during the period for which he is  
35 licensed shall notify the clerks of the circuit courts with whom he  
36 is registered and return his license to the director or his designee  
37 for cancellation within thirty days after discontinuance.”  
38

39 SECTION 14. Section 38-53-260 of the 1976 Code is amended  
40 to read:  
41

42 “Section 38-53-260. ~~(A) No professional or~~ A surety  
43 bondsman may not become a surety on an undertaking unless he

1 has registered his current license in the office of the clerk of the  
2 circuit court in the county in which he resides and registered a  
3 certified copy of the license with the clerk of the circuit court in  
4 any other county in which he writes bail bonds.

5 (B) A surety bondsman ~~shall~~ also shall annually register a  
6 certified copy of his current power of appointment with the clerk  
7 of the circuit court where he resides and in any other county where  
8 he writes bail bonds on behalf of an insurer.”

9

10 SECTION 15. Sections 38-53-110, 38-53-230, 38-53-280,  
11 38-53-290, 38-53-300, 38-53-310 and 38-53-330 are repealed.

12

13 SECTION 16. This act takes effect upon approval by the  
14 Governor.

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